

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7283

BILL NUMBER: HB 1286

NOTE PREPARED: Jan 13, 2015

BILL AMENDED:

SUBJECT: Homeowners Associations; Condominiums.

FIRST AUTHOR: Rep. Burton

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Disclosures & Condominium Declarations-* The bill requires that certain disclosures must be made relating to the sale of property subject to a homeowners association. It describes conditions under which a condominium declaration may be amended. The bill describes analogous conditions under which the governing documents of a homeowners association may be amended.

Geographic Description- The bill removes a geographic restriction on the application of a provision relating to the consent necessary for the co-owners of a condominium to convey common areas and facilities.

Dispute Resolution Procedure- The bill establishes a procedure to resolve certain disputes between a co-owner and a condominium association. The bill establishes an analogous procedure to resolve disputes between a member and a homeowners association.

Proxies- The bill provides that certain requirements must be met for a proxy to be valid if used at a meeting of a homeowners association. The bill reorganizes certain statutes relating to homeowners associations. The bill repeals certain statutes that are reorganized.

Homeowners Association Study Committee- The bill establishes the Homeowners Association Study Committee (HASC). It requires the HASC to study homeowners associations in Indiana, including mediation or arbitration of disputes involving homeowners associations and members of homeowners associations. The bill provides that the law establishing the HASC expires January 1, 2017.

Effective Date: July 1, 2015.

Explanation of State Expenditures: *Homeowners Association Study Committee (HASC)*- The HASC would have eight legislative members. Recent Legislative Council resolutions have established the interim budget of \$9,500 for study committees consisting of 15 or fewer members. Actual expenditures would depend on mileage traveled by members, the mileage reimbursement rate, the per diem rate, and the budget established by the Legislative Council during the 2015 and 2016 interims.

Explanation of State Revenues: *Dispute Resolution Procedure*- This provision could help reduce the number of civil actions filed in a given year. A claimant would have to follow the procedures in the bill prior to filing an action. If fewer small claims actions occur and court fees are collected, revenue to the state General Fund would decrease.

Additional Information- For small claims cases filed in counties other than Marion County, a small claims costs fee of \$35 would be assessed, 70% of which is deposited in the state General Fund. In all counties, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. Proceeds from the automated record keeping fee (\$7) are deposited into the state User Fee Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Dispute Resolution Procedure*- If fewer small claims cases occur, local governments would receive less revenue from filing fees.

Additional Information- When a small claims action is filed, in counties other than Marion County, the county general fund receives 27% of the \$35 small claims costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees.

In Marion County, a person filing a small claims case must pay the township docket fee of \$36.50 and bailiff's fees totaling \$26. Additional fees may be charged as required for witnesses and/or re-docketing of the case. Persons filing a small claims case, in all counties, are also required to pay the following fees that are deposited in local funds.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the lawsuit.

Additionally, the document storage fee (\$2) is deposited into the clerk record perpetuation fund.

State Agencies Affected: Legislative Council; Legislative Services Agency.

Local Agencies Affected: Superior and circuit courts, Marion County Small Claims Court.

Information Sources: Legislative Council Resolutions 12-02, 13-02, and 14-02.

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